

AMENDED IN ASSEMBLY MAY 19, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## Assembly Concurrent Resolution

No. 49

---

Introduced by Assembly Member Evans

March 10, 2009

---

Assembly Concurrent Resolution No. 49—Relative to the California Law Revision Commission.

### LEGISLATIVE COUNSEL'S DIGEST

ACR 49, as amended, Evans. California Law Revision Commission: studies.

Under existing law, the California Law Revision Commission is required to study, and is limited to studying, those topics approved for its study by resolution of the Legislature.

This measure would authorize the commission to study whether specified laws should be revised, *authorize the commission to study the legal and policy implications of treating a charter school as a public entity for purposes of the Tort Claims Act*, and would also authorize the removal of one specific topic from the calendar of the commission.

The measure would require the commission, before commencing work on any project within the calendar of topics the Legislature has authorized or directed the commission to study, to submit a detailed description of the scope of work to the ~~Chairs~~ *chairs* and ~~Vice-Chairs~~ *vice chairs* of the Committees on Judiciary of the Senate and the Assembly, and if during the course of the project there is a major change to the scope of work, submit a description of the change.

Fiscal committee: ~~no~~-yes.

1 WHEREAS, The California Law Revision Commission is  
2 authorized to study topics set forth in the calendar contained in its  
3 report to the Governor and the Legislature that have been or are  
4 thereafter approved for study by concurrent resolution of the  
5 Legislature, and topics that have been referred to the commission  
6 for study by concurrent resolution of the Legislature or by statute;  
7 and

8 WHEREAS, The commission, in its annual report covering its  
9 activities for 2008 and 2009, recommends continued study of 21  
10 topics, all of which the Legislature has previously authorized or  
11 directed the commission to study, and further recommends the  
12 *addition of one new topic to its calendar and the removal of one*  
13 *previously authorized topic from its calendar*; now, therefore, be  
14 it

15 *Resolved by the Assembly of the State of California, the Senate*  
16 *thereof concurring*, That the Legislature approves for continued  
17 study by the California Law Revision Commission the topics listed  
18 below, all of which the Legislature has previously authorized or  
19 directed the commission to study:

20 (1) Whether the law should be revised that relates to creditors'  
21 remedies, including, but not limited to, attachment, garnishment,  
22 execution, repossession of property (including the claim and  
23 delivery statute, self-help repossession of property, and the  
24 Commercial Code provisions on repossession of property),  
25 confession of judgment procedures, default judgment procedures,  
26 enforcement of judgments, the right of redemption, procedures  
27 under private power of sale in a trust deed or mortgage, possessory  
28 and nonpossessory liens, insolvency, and related matters.

29 (2) Whether the California Probate Code should be revised,  
30 including, but not limited to, the issue of whether California should  
31 adopt, in whole or in part, the Uniform Probate Code, and related  
32 matters.

33 (3) Whether the law should be revised that relates to real and  
34 personal property, including, but not limited to, a marketable title  
35 act, covenants, servitudes, conditions, and restrictions on land use  
36 or relating to land, powers of termination, escheat of property and  
37 the disposition of unclaimed or abandoned property, eminent  
38 domain, quiet title actions, abandonment or vacation of public  
39 streets and highways, partition, rights and duties attendant on

1 assignment, subletting, termination, or abandonment of a lease,  
2 and related matters.

3 (4) Whether the law should be revised that relates to family law,  
4 including, but not limited to, community property, the adjudication  
5 of child and family civil proceedings, child custody, adoption,  
6 guardianship, freedom from parental custody and control, and  
7 related matters, including other subjects covered by the Family  
8 Code.

9 (5) Whether the law relating to discovery in civil cases should  
10 be revised.

11 (6) Whether the acts governing special assessments for public  
12 improvement should be simplified and unified.

13 (7) Whether the law relating to the rights and disabilities of  
14 minors and incompetent persons should be revised.

15 (8) Whether the Evidence Code should be revised.

16 (9) Whether the law relating to arbitration, mediation, and other  
17 alternative dispute resolution techniques should be revised.

18 (10) Whether there should be changes to administrative law.

19 (11) Whether the law relating to the payment and the shifting  
20 of attorney's fees between litigants should be revised.

21 (12) Whether the Uniform Unincorporated Nonprofit  
22 Association Act, or parts of that uniform act, and related provisions  
23 should be adopted in California.

24 (13) Recommendations to be reported pertaining to statutory  
25 changes that may be necessitated by court unification.

26 (14) Whether the law of contracts should be revised, including  
27 the law relating to the effect of electronic communications on the  
28 law governing contract formation, the statute of frauds, the parol  
29 evidence rule, and related matters.

30 (15) Whether the law governing common interest housing  
31 developments should be revised to clarify the law, eliminate  
32 unnecessary or obsolete provisions, consolidate existing statutes  
33 in one place in the codes, establish a clear, consistent, and unified  
34 policy with regard to formation and management of these  
35 developments and transaction of real property interests located  
36 within them, and to determine to what extent they should be subject  
37 to regulation.

38 (16) Whether the statutes of limitation for legal malpractice  
39 actions should be revised to recognize equitable tolling or other

1 adjustment for the circumstances of simultaneous litigation, and  
2 related matters.

3 (17) Whether the law governing disclosure of public records  
4 and the law governing protection of privacy in public records  
5 should be revised to better coordinate them, including consolidation  
6 and clarification of the scope of required disclosure and creation  
7 of a single set of disclosure procedures, to provide appropriate  
8 enforcement mechanisms, and to ensure that the law governing  
9 disclosure of public records adequately treats electronic  
10 information, and related matters.

11 (18) Whether the law governing criminal sentences for  
12 enhancements relating to weapons or injuries should be revised to  
13 simplify and clarify the law and eliminate unnecessary or obsolete  
14 provisions.

15 (19) Whether the Subdivision Map Act (Division 2 (commencing  
16 with Section 66410) of Title 7 of the Government Code) and the  
17 Mitigation Fee Act (Chapter 5 (commencing with Section 66000),  
18 Chapter 6 (commencing with Section 66010), Chapter 7  
19 (commencing with Section 66012), Chapter 8 (commencing with  
20 Section 66016), and Chapter 9 (commencing with Section 66020)  
21 of Division 1 of Title 7 of the Government Code) should be revised  
22 to improve their organization, resolve inconsistencies, and clarify  
23 and rationalize provisions, and related matters.

24 (20) Whether the Uniform Statute and Rule Construction Act  
25 (1995) should be adopted in California in whole or part, and related  
26 matters.

27 (21) Whether the law governing the place of trial in a civil case  
28 should be revised; and be it further

29 *RESOLVED, That the Legislature approves for study by the*  
30 *California Law Revision Commission the new topic listed below:*

31 *Analysis of the legal and policy implications of treating a charter*  
32 *school as a public entity for the purposes of Division 3.6*  
33 *(commencing with Section 810) of Title 1 of the Government Code.*  
34 *In conducting this analysis, the California Law Revision*  
35 *Commission shall not make any recommendation on whether a*  
36 *charter school should be treated as a public entity for the purposes*  
37 *of Division 3.6 (commencing with Section 810) of Title 1 of the*  
38 *Government Code; and be it further*

1     *Resolved*, That the Legislature approves removal from the  
2 calendar of the California Law Revision Commission the topic  
3 listed below:

4     (1) Whether the law relating to offers of compromise should be  
5 revised; and be it further

6     *Resolved*, That before commencing work on any project within  
7 the calendar of topics the Legislature has authorized or directed  
8 the commission to study, the commission shall submit a detailed  
9 description of the scope of work to the Chairs and Vice Chairs of  
10 the Committees on Judiciary of the Senate and Assembly, and if  
11 during the course of the project there is a major change to the scope  
12 of work, submit a description of the change; and be it further

13     *Resolved*, That the Chief Clerk of the Assembly transmit a copy  
14 of this resolution to the California Law Revision Commission; and  
15 be it further

16     *Resolved*, That the Chief Clerk of the Assembly transmit copies  
17 of this resolution to the author for appropriate distribution.